

C O P Y

1954

Mar. 10

Mr. Philip D. McInnis
Deputy State Treasurer
State House

Dear Mr. McInnis:

Under date of March 5, 1954, you have referred to the proposed \$16,350,000 bond issue, and have inquired (1) whether the signature of the Governor may be affixed to the bonds in New York and (2) whether or not the State Seal may be taken to New York for the purposes of sealing the bonds.

Your attention is invited to Constitution of New Hampshire, Part Second, Article 49, which holds the chair of the Governor to be vacant when the person holding the office is absent from the State. It follows that the person holding the office cannot act as Governor when so absent. His signing of bonds outside the State, would, then, be an unavailing act.

While it is suggested that the bonds to be issued, as negotiable instruments, are without effect until delivered, and that at the time of delivery the Governor will be present in the State, we are of the opinion that the actual affixing of the signature -- as distinct from delivery -- is an act which can be done only by a person clothed with the powers of the Governor at the time the act is done. In this respect we invite your attention to Laws 1951, c. 191, s. 5 (Rehabilitation Bonds), as an example, wherein it is required that the Secretary of State must record the time of countersigning. See also, Laws 1951, c. 254, s. 10, Laws 1943, c. 201, s. 8; Laws 1945, c. 183, s. 14, subsec. IV; Laws 1950, c. 6, s. 19, subsec. IV; Laws 1951, c. 196, s. 3, referring to Laws 1939, c. 159, s. 2; Laws 1951, c. 216, s. 2; Laws 1951, c. 240, s. 5; Laws 1953, c. 254, s. 5; Laws 1953, c. 226, s. 4.

With respect to your second question, it will be observed that the Secretary of State is the custodian of the State Seal (R. L. c. 21, s. 3). Prior to undertaking to answer your question we should wish to be informed whether the Secretary of State desires to take the Seal out of the State if such action be legally permissible.

Very truly yours,

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Warren E. Waters
Deputy Attorney General

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CONCORD, N.H.

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